



October 6, 1999

Mr. Darrell G-M Noga
Cooper & Scully
Founders Square
900 Jackson Street, Suite 100
Dallas, Texas 75202

OR99-2843

Dear Mr. Noga:

You ask whether certain information is subject to ~~public~~ public disclosure under the, Texas Public Information Act chapter 552 of the Government Code. Your request was assigned ID# 128531.

The City of Coppell (the "city") received a request ~~for~~ four particular incident reports. You assert that three of the reports, Incident Report Nos. 99-6172, 98-42610 and 98-34674, are excepted from disclosure based on section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. You assert ~~that~~ one report, Incident No. 96-35537, is excepted from disclosure based on section ~~552~~ 101 of the Government Code in conjunction with the common-law and constitutional rights to privacy.

Section 552.101 of the Government Code excepts ~~from~~ disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions ~~such~~ as Family Code section 58.007. Juvenile law enforcement records relating to ~~conduct~~ that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to ~~the~~ public and shall be:

- (1) kept separate from adult files and records; and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

~~The~~ three reports involve juvenile conduct that occurred after September 1, 1997. It does not ~~mean~~ that any of the exceptions in section 58.007 apply; therefore, the requested ~~information~~ is confidential pursuant to section 58.007(c) of the Family Code. You must ~~withhold~~ the three reports from disclosure under section 552.101 of the Government Code.

Section 552.101 of the Government Code excepts from required public disclosure information considered to be confidential by law, including information made confidential by judicial decision. This exception applies to information made confidential by the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information must be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.*

Section 552.101 also incorporates the constitutional right to privacy. The United States Constitution protects two kinds of individual privacy interests: (1) an individual's interest in independently making certain important personal decisions about matters that the United States Supreme Court has stated are within the "zones of privacy," as described in *Roe v. Wade*, 410 U.S. 113 (1976) and *Paul v. Davis*, 424 U.S. 693 (1976). The "zones of privacy" implicated in the individual's interest in independently making certain kinds of decisions include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. The second individual privacy interest that implicates constitutional privacy involves matters outside the zones of privacy. To determine whether the constitutional right to privacy applies, this office applies a balancing test, weighing the individual's interest in privacy against the public right to know the information. *See Open Records Decision No. 455 at 5* (citing *Ramie v. City of Hedwig Village*, 765 F.2d 490, 492 (5th Cir. 1985)).

We have reviewed the report at issue. We conclude that it is not protected from required public disclosure based on either the common-law or constitutional right of privacy. Accordingly, the city must release the report to the requestor.

We are resolving this matter with this informal letter ruling rather than with a published ~~open~~ records decision. This ruling is limited to the particular records at issue under the ~~laws~~ presented to us in this request and may not be relied upon as a previous determination ~~regarding~~ regarding any other records. If you have questions about this ruling, please contact ~~the~~ office.

Sincerely,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KHH/nc

Ref.: ID# 128531

Encl. Submitted documents

cc: Mr. Dale Burrows
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(w/o enclosures)